



**FAIRFAX
COUNTY**

STAFF REPORT

V I R G I N I A

PROPOSED ZONING ORDINANCE AMENDMENT

Articles 8, 9, 16, 18 and 20 - Minor Modifications to Approved Zonings and Other Related Changes

PUBLIC HEARING DATES

Planning Commission

October 26, 2017 at 8:15 p.m.

Board of Supervisors

November 21, 2017 at 3:30 p.m.

**PREPARED BY
ZONING ADMINISTRATION DIVISION
DEPARTMENT OF PLANNING AND ZONING
703-324-1314**

September 26, 2017

KG/BB



Americans with Disabilities Act (ADA): Reasonable accommodation is available upon 48 hours advance notice. For additional information on ADA call 703-324-1334 or TTY 711 (Virginia Relay Center).

STAFF COMMENT

The proposed amendment addresses the “Minor Modification Provisions” of the Zoning Ordinance and is designed to provide new flexibility to the current provisions that allow additional minor modifications to rezonings, special exceptions, and special permits to be approved by the Zoning Administrator or, in the case of certain variations to proffered conditions, by the Board of Supervisors without a public hearing. The effect would be to reduce the number of changes that require formal zoning amendment applications. Originally placed on the 2016 Priority I Zoning Ordinance Work Program, this amendment was added to the list of prioritized amendments under the Zoning Ordinance Modernization (zMOD) Initiative as Item #2 on the 2017 Priority I Zoning Ordinance Work Program. The priority of this amendment was established by the Board of Supervisors and responds to several Fairfax First development process improvement initiatives, as well input from discussions conducted with County staff, applicants and stakeholders. The proposed amendment was presented, in concept, to the Board’s Development Process Committee on several occasions, and on June 6, 2017, the Board directed staff to proceed with the amendment and undertake appropriate community outreach. Staff has conducted two public meetings on the amendment and met with a number of stakeholders, including the Citizen Working Group representing the nine magisterial districts; several of the District Land Use committees and NVBIA/NAIOP. Staff has also met with the Planning Commission’s Land Use Process Review Committee, the Private Land Use Attorneys Working Group, and the Land Use Council of the Tysons Partnership.

Background

Typically, land use actions are approved with a set of conditions (proffers for rezonings and development conditions for final development plans, PRC plans, special exceptions, and special permits) that address site-specific and operational aspects of the proposal. These may include conformance with a specific layout or design; delineation of an environmental area to be preserved; specific uses allowed; or limits on aspects such as hours of operation. These proffers and conditions become part of the zoning of the property, and any development must be in “substantial conformance” with them. Substantial conformance is defined in the Zoning Ordinance as something that “is consistent with and does not materially alter the character of the approved development” and “with any proffered, or imposed conditions.” This definition is not proposed to be changed.

Modifications to an approval are often requested, either based on detailed design or engineering done after the zoning action or because conditions have changed over time. The current Zoning Ordinance allows what are termed “minor modifications” to be approved administratively by the Zoning Administrator. These minor modification provisions are found in Sections 18-204 for proffered rezonings, 8-004 for special permits, 9-004 for special exceptions, 16-203 for PRC plans, and 16-403 for final development plans. This authority granted to the Zoning Administrator has existed for over 30 years. The Zoning Ordinance also allows the Zoning Administrator to approve minor additions to existing buildings and accessory structures as a minor modification. For a minor modification to be approved, the request must be determined to be in substantial conformance with the zoning, as discussed above, and cannot:

- Change the amount of land area or permit a more intensive use;

- Result in an increased parking requirement (although parking may be required and provided for a minor building addition);
- Permit uses other than those approved;
- Reduce the effectiveness of approved screening, buffering, landscaping or open space;
- Permit changes to bulk, mass, orientation or location which adversely impact the relationship of the development to adjacent property; or
- Result in an increase in the amount of clearing and/or grading for a stormwater management facility.

As described in more detail below, the specific changes to the Zoning Ordinance proposed in this amendment include: (1) the provision of additional flexibility for the consideration by the Zoning Administrator of minor modifications to proffers, PRC and development plans, special exceptions, and special permits to address building height and rooftop coverage issues related to energy and environmental technologies; to address the incidental floor area created by the replacement of a building façade in the renovation and repositioning of existing structures; to address sign color and typeface; and, to allow additional floor area as minor building additions; (2) the creation of a new procedure for approval of specific minor variations to proffered conditions by the Board (related to the addition of uses, building height, minimum yard dimensions, community recreation uses, proffer obsolescence, and architecture), without a public hearing; and, (3) related changes to initiation of applications, submission requirements, fees and definitions.

Proposed Amendment

The proposed amendment streamlines and reformats the text for the applicable sections of the Zoning Ordinance included in this amendment to be more user friendly, eliminate duplicative text and unnecessary verbiage, and use more understandable plain language. Section 18-204 “Proffered Condition Regulations” is completely rewritten and would be replaced by this amendment. Changes to the Minor Modifications provisions for the other types of zoning approvals are shown as strikeouts of current text to be deleted and underlining of new text to be added.

Minor Modifications Approved by the Zoning Administrator (Sections 8-004, 9-004, 16-203, 16-403, 18-204)

While addressing the need for additional flexibility to respond to changing circumstances, the proposed amendment would retain the protections expected by the community contained in the existing parameters for determining substantial conformance, as outlined above, and would maintain that proffers and development conditions are part of the zoning regulations of the property, unless they are changed by a subsequent zoning action.

The amendment would provide flexibility to the existing provisions by allowing Minor Modifications to be approved by the Zoning Administrator in the five additional areas described below.

1. Exempt solar collectors and other innovative energy and environmental technology structures less than 10 feet in height from building height and rooftop coverage limitations.

This change addresses instances where, for example, solar collectors on the roof of a multi-story office building were proposed to be added for LEED Certification but exceeded the allowable rooftop coverage and building height limits, and therefore required the approval of an amendment. This exemption is consistent with County policy to promote energy conservation and green building practices.

2. Exclude from the definition of gross floor area and the calculation of FAR any incidental increase in interior space created by the replacement of a façade material on an existing building.

This addresses an issue that arose in the repositioning of an existing office building, where the replacement of the precast façade with a glass façade increased interior space which resulted in a floor area exceeding the maximum allowed. This change facilitates County policy to advance the repositioning and repurposing of existing buildings.

3. Permit a change in the color of signs and typeface, unless specifically contrary to the approved proffers/conditions, provided that it does not change the character of the approved sign.

This change addresses instances where an amendment was required to change the color of signs for a bank when the corporate colors changed.

4. Increase the allowable size for minor building additions and simplify the provisions.

Under the current Zoning Ordinance, minor building additions are permitted by different formulas for two different categories of uses (Places of Worship and All Other Uses) and for two types of development (those approved for 50,000 square feet or less of floor area, or those approved for more than 50,000 square feet of floor area), as indicated in the table below.

Current Provisions		Proposed Provisions	
Places of Worship and Places of Worship with child care centers/schools ("Places of Worship")	The greater of 500 square feet or 5% of the total approved floor area up to a maximum of 2500 square feet	All Uses up to 250,000 square feet GFA	The greater of 500 square feet or 5% of the approved floor area up to a maximum of 2500 square feet
All Other Uses (50,000 square feet GFA or less)	5% of the approved floor area up to a maximum of 500 square feet		
All Other Uses (more than 50,000 square feet GFA)	1% of the approved floor area		
		All Uses more than 250,000 sq. ft. GFA	1% of the approved floor area

The proposed amendment would simplify the provisions by treating all uses the same. The change would apply the same formula used for Places of Worship to all uses in developments that do not exceed 250,000 square feet. This change will increase the allowable size of a minor building addition which could be permitted in uses other than Places of Worship, as indicated in the table below, provided that the additions are otherwise in substantial conformance with the approved zoning and would not intensify the use. For proffered developments exceeding 250,000 square feet, a minor building addition greater than 2500 square feet could be requested under the current Zoning Ordinance; therefore, the current 1% formula is not changed. It is important to note that a minor building addition cannot exceed the maximum density or FAR allowed in the zoning district or by proffered conditions.

Proposed Minor Building Addition Size Allowed (sq. ft.) for All Uses

Development Size	Current Z.O.	Proposed	Change
1500	75	500	+425
5000	250	500	+250
10000	500	500	0
20000	500	1000	+500
30000	500	1500	+1000
40000	500	2000	+1500
50000	500	2500	+2000
60000	600	2500	+1900
100000	1000	2500	+1500
150000	1500	2500	+1000
200000	2000	2500	+500
250000	2500	2500	0
300000	3000	3000	0

The proposed amendment will benefit those uses previously defined as “all uses other than places of worship,” particularly those smaller uses that are less than 10,000 square feet in size and uses between 10,000 and 50,000 square feet in size. The proposed amendment will also benefit places of worship that are greater than 250,000 square feet in size.

This amendment would also clarify that cellar space could be allowed as a minor building addition under the limitations listed above.

Under the current Zoning Ordinance, anyone requesting a minor modification for a building addition must send notice of the request to the owners of the adjacent properties. No change is proposed to these requirements.

5. Permit modifications that reduce setback dimensions up to 10% from that shown on an approved development plan.

While this provision is new, the amendment would codify what has been longstanding practice in interpreting minor changes in setback dimension. The amendment would clarify and distinguish this provision from the authority proposed below by which the Board could approve minor variations to proffered minimum required yards. The provision of additional landscaping and screening is often companion to such requests where appropriate.

Minor Variations to Proffered Conditions Approved by the Board (Section 18-204)

The proposed amendment creates a new avenue for the Board to approve certain requests for minor variations to proffered conditions. The Board requested staff to identify a process whereby the Board could approve minor changes to proffers without requiring a full amendment application and a public hearing. This process would apply only to proffered conditions, not to special exceptions or special permits. The proposed process would allow the Board to approve a minor variation to a proffered condition as an Action Item, based upon the facts and context of the approved zoning, without a public hearing, in the six specific circumstances as set forth below. Public notice to the adjacent property owners would be required.

1. The addition or modification of a use which is not specifically precluded by proffers, if the new use does not have a greater land use impact than the approved use(s) in terms of parking, trip generation, vehicular circulation, or hours of operation.

This change is based upon a request by the Board to add the flexibility to allow new uses in places such as shopping centers. For example, a shopping center may now be permitted to add to a vacant storefront a currently popular commercial recreation use that may not have even existed at the time of the zoning approval. Similarly, in P-Districts this provision would allow the addition of a use that may not have been listed on a proffered FDP, perhaps because the use did not exist at the time the zoning was approved. In either case, the use may be permitted, provided it does not have a greater land use impact than the approved uses.

2. An increase in building height based upon final engineering or design issues, provided the resultant height does not exceed the lesser of 15 feet or 15% of the approved height,

cause the building to exceed the maximum height of the zoning district, or have a materially adverse impact on adjacent properties.

This change is designed to address circumstances that arise during final engineering such as the discovery of subsurface rock that would be costly to remove and therefore would necessitate a change in elevation and an increase in building height.

3. A modification to proffered minimum yard dimensions, building setbacks, or distances from peripheral lot lines shown on an approved development plan, but only if the modified dimensions would not have a materially adverse impact on adjacent properties or other proffered conditions.

This change is designed to address a request to modify minimum yard dimensions and setbacks beyond those which can be approved as minor modifications. The need has arisen where property owners have located or propose to locate structures within proffered minimum yards or setbacks. This often occurs in P-Districts with small lots. Currently, the only way to resolve these issues is either to remove the structures or seek approval through the submission PCA and/or FDPA applications. This added provision would allow the Board to approve a modified yard without an amendment application and public hearing.

4. Modification or deletion of local community active or passive recreation uses shown on an approved development plan—at the request of the property owner or owners' association, provided that the change would not reduce the recreational uses or open space below the minimum required for the zoning district or otherwise required by the Zoning Ordinance.

This change is proposed to address requests from HOAs or management companies to change a proffered active recreation facility to a completely passive recreation facility to reflect community preferences.

5. Modification of proffer commitments to technologies (such as computer business centers) or services (such as transportation shuttles) that are underutilized or that have become ineffective or obsolete as circumstances have changed.

This would address, for example, a proffered shuttle that becomes superfluous and underused as a result of a new public bus system or a proffer to distribute now-obsolete Metro smart cards at a hotel.

6. Modification of architectural design, character, color, features, or materials for buildings and signs described in proffered conditions or shown on an approved development plan, provided that the modifications are of equivalent quality and do not have a materially adverse impact on adjacent properties.

This would address issues that occur when, for example, ownership changes and the new owner proposes new design elements.

As noted, anyone requesting a minor variation to a proffered condition by the Board of Supervisors must send notice to the surrounding property owners in accordance with Virginia Code Section 15.2-2204(B). This is the same notification that would be required for a proffered condition amendment public hearing.

It is important to note that approval of a request for a minor modification or minor variation is not a matter of right. County staff will evaluate each request on its merits based on the proffered conditions, the approved zoning and the provisions of the Zoning Ordinance, and will coordinate the review of each request with the respective Board member and Planning Commissioner.

In addition, the Board at its discretion may elect not to waive a public hearing for a minor variation, in which case the request may be processed as a proffered condition amendment application that requires a public hearing before the Board.

A request for a change to a proffered condition that cannot be accomplished as a minor modification or minor variation would still require a proffered condition amendment after a public hearing before the Board.

Paragraph 6 of Section 18-204 is proposed to be revised with regard to the filing of a partial proffered condition amendment application. Currently, the Zoning Ordinance requires that, before accepting an application for a partial proffer amendment, the Zoning Administrator make a determination about the impact of the amendment on the remainder of the property subject to the proffered conditions. The revised text eliminates this prerequisite. Similar revised text is proposed for Par. 9 of Section 16-202, Rezoning to a PRC District, and Par. 11 of Section 16-401, Conceptual Development Plan Approval—both of which relate to partial development plan amendments.

While not part of this amendment, the Department of Planning and Zoning, as a Fairfax First Initiative, has established an expedited process for Single Issue Amendment applications. In this process, the review of focused single issue amendments is managed within an approximate 90 day timeframe from acceptance to public hearing before the Planning Commission. As these applications typically do not entail new construction, the fee for single-issue amendment applications would be one-half of the prevailing fees.

Other Proposed Changes

- Section 18-201, 202, and 203 – Initiation of Amendments, Submission Requirements and Generalized Development Regulations

The proposed revisions are primarily a reorganization of the existing text and are not substantive changes, except for reduction (to one) in the required number of copies of an application. The submission requirements for a Generalized Development Plan have been revised to remove redundant language and now fall under the Section 203.

- Article 20 – Ordinance Structure, Interpretations and Definitions

The proposed amendments to Article 20 add a new Paragraph to Part 2 to clarify that the term “rezoning” means an amendment to the zoning map and to amend the definition of Gross Floor Area to exclude floor space incidental to the replacement of an existing building façade.

- Section 18-106 – Application and Zoning Compliance Letter Fees

The proposed amendment adds a new fee for Minor Variations. The proposed fee is \$520, which is the current fee for an interpretation. The advertisement of this amendment will reflect this as the minimum fee. The Board has the option to adopt a higher fee.

Conclusion

The proposed amendment specifically addresses the need to add flexibility to the minor modification and proffer amendment provisions of the Zoning Ordinance. By providing for the administrative approval of these minor modifications and a new process for certain Board-approved minor variations, this amendment will reduce the need for zoning amendment applications requiring a public hearing and improve the timing of the land development process. Staff recommends approval of the proposed amendment with an effective date of 12:01 a.m. on the day following adoption.

PROPOSED AMENDMENT

This proposed Zoning Ordinance amendment is based on the Zoning Ordinance in effect as of September 26, 2017, and there may be other proposed amendments which may affect some of the numbering, order or text arrangement of the paragraphs or sections set forth in this amendment, which other amendments may be adopted prior to action on this amendment. In such event, any necessary renumbering or editorial revisions caused by the adoption of any Zoning Ordinance amendments by the Board of Supervisors prior to the date of adoption of this amendment will be administratively incorporated by the Clerk in the printed version of this amendment following Board adoption.

1 **Amend Article 8, Special Permits, Part 0, General Provisions, by revising Sect. 8-004, to read**
 2 **as follows:**

3
 4 **8-004 Status of Special Permit Uses**

- 5
 6 1. ~~Once a~~ A special permit is ~~approved~~, such use may only be established in
 7 accordance with ~~such~~ the special permit approval, ~~and a~~ Any site plan,
 8 subdivision plat, Building Permit, Residential or Non-Residential Use Permit
 9 hereafter submitted for the development or use of the property in accordance
 10 with the special permit ~~shall~~ must be in substantial conformance with the
 11 approved special permit, and no development or use ~~shall~~ may be approved by
 12 any County official in the absence of such conformance.
- 13
 14 2. Once established, the use ~~shall~~ must be conducted in substantial conformance
 15 with the special permit, any conditions or restrictions imposed by the BZA and
 16 all other requirements of this Ordinance. Except as may be permitted under
 17 Paragraphs 3 and 4 below, no use ~~shall~~ may be enlarged, expanded, increased
 18 in intensity or relocated and no condition of the special permit ~~shall~~ may be
 19 ~~modified~~ amended unless an application is made and approved for an
 20 amendment to the special permit in accordance with Sect. 014 below or a new
 21 special permit is approved.
- 22
 23 3. ~~Notwithstanding the above, a~~ Any modification to an approved and currently
 24 valid special permit to provide an accessibility improvement ~~shall~~ may be
 25 permitted and ~~shall~~ does not require approval of an amendment to the special
 26 permit or a new special permit.
- 27
 28 4. ~~Minor modifications to an approved special permit may be permitted when it~~
 29 ~~is determined by the Zoning Administrator that such are in substantial~~
 30 ~~conformance with the approved special permit and that such:~~ are in response to
 31 issues of topography, drainage, underground utilities, structural safety, layout,
 32 design, vehicular circulation, or requirements of the Virginia Department of

1 ~~Transportation or Fairfax County; or are accessory uses; or are accessory~~
2 ~~structures or minor building additions as permitted by Par 4A(7) or 4B(7)~~
3 ~~below.~~

4
5 A. ~~For approved special permits for all uses, other than churches, chapels,~~
6 ~~temples, synagogues and other such places of worship (hereinafter places~~
7 ~~of worship) and places of worship with a child care center, nursery school~~
8 ~~or private school of general or special education, the modifications shall,~~
9 ~~in no event:~~

10
11 ~~(1) Permit a more intensive use which shall include but not be limited~~
12 ~~to an expansion of the hours of operation or an increase in number~~
13 ~~of seats, students or employees from that approved pursuant to the~~
14 ~~special permit; or~~

15
16 ~~(2) Result in an increased parking requirement, except for any~~
17 ~~additional parking which may be required for any building~~
18 ~~additions or modifications permitted under Par. 4A (7) below; or~~

19
20 ~~(3) Permit uses other than those approved pursuant to the special~~
21 ~~permit, except that accessory uses in accordance with this~~
22 ~~paragraph may be permitted; or~~

23
24 ~~(4) Reduce the effectiveness of approved transitional screening,~~
25 ~~buffering, landscaping or open space; or~~

26
27 ~~(5) Permit changes to bulk, mass, orientation or location which~~
28 ~~adversely impact the relationship of the development or part thereof~~
29 ~~to adjacent property; or~~

30
31 ~~(6) Result in an increase in the amount of clearing and/or grading for a~~
32 ~~stormwater management facility, including any clearing and/or~~
33 ~~grading associated with spillways, inlets, outfall pipes or~~
34 ~~maintenance roads, that reduces non-stormwater management open~~
35 ~~space, tree save and/or landscaping area on the lot; or~~

36
37 ~~(7) Include the addition of any building or additions to buildings except~~
38 ~~that accessory structures clearly subordinate to the use, and minor~~
39 ~~additions to buildings may be permitted, provided that the sum total~~
40 ~~of all such structures or additions shall not exceed the following:~~

41
42 ~~(a) five (5) percent of the approved gross floor area or 500 square~~
43 ~~feet of gross floor area, whichever is less, when the total gross~~
44 ~~floor area shown on the approved special permit plat is less~~
45 ~~than 50,000 square feet; or~~
46

- (b) ~~one (1) percent of the approved gross floor area when the total gross floor area shown on the approved special permit plat is 50,000 square feet or more; or~~
- (c) ~~250 square feet of gross floor area of accessory storage structure uses when the total gross floor area shown on the approved special permit plat is 10,000 square feet or less; and~~
- (d) ~~the maximum permitted FAR for the zoning district in which located.~~

B. ~~For approved special permits for places of worship and places of worship with a child care center, nursery school or private school of general or special education, the modifications shall, in no event:~~

- (1) ~~Permit an expansion of the hours of operation from that approved pursuant to the special permit; or~~
- (2) ~~Permit an increase in the number of seats, parking spaces or students, if applicable, which exceeds more than ten (10) percent of the amount approved pursuant to the special permit; or~~
- (3) ~~Permit uses other than those approved pursuant to the special permit, except that accessory uses in accordance with this paragraph may be permitted; or~~
- (4) ~~Reduce the effectiveness of approved transitional screening, buffering, and landscaping or open space; or~~
- (5) ~~Permit changes to bulk, mass, orientation or location which adversely impact the relationship of the development or part thereof to adjacent property; or~~
- (6) ~~Result in an increase in the amount of clearing and/or grading for a stormwater management facility, including any clearing and/or grading associated with spillways, inlets, outfall pipes or maintenance roads, that reduces non-stormwater management open space, tree save and/or landscaping area on the lot; or~~
- (7) ~~Include the addition of any building or additions to buildings except that accessory structures clearly subordinate to the use, and minor additions to buildings may be permitted, provided that:~~
 - (a) ~~the sum total of all such structures or additions shall not exceed the greater of 500 square feet of gross floor area, or~~

1 five (5) percent of the approved gross floor area up to a
 2 maximum of 2500 square feet of gross floor area; and

- 3
 4 (b) ~~the maximum permitted FAR for the zoning district shall not~~
 5 ~~be exceeded.~~

6
 7 C. ~~For all approved special permit uses, any request for an addition shall~~
 8 ~~require the provision of written notice by the requester in accordance~~
 9 ~~with the following:~~

10
 11 (1) ~~the notice shall include the letter of request with all attachments as~~
 12 ~~submitted to the Zoning Administrator, a statement that the request~~
 13 ~~has been submitted, and where to call for additional information;~~
 14 ~~and~~

15
 16 (2) ~~the notice shall be sent to the last known address of the owners, as~~
 17 ~~shown in the real estate assessment files of the Department of Tax~~
 18 ~~Administration, of all property abutting and across the street from~~
 19 ~~the site, or portion thereof, which is the subject of the request, and~~
 20 ~~shall be delivered by hand or sent by certified mail, return receipt~~
 21 ~~requested.~~

22
 23 ~~The request for an addition submitted to the Zoning Administrator shall~~
 24 ~~include: an affidavit from the requester affirming that the required notice~~
 25 ~~has been provided in accordance with the above; the date that the notice~~
 26 ~~was delivered or sent; the names and addresses of all persons notified;~~
 27 ~~and the Tax Map references for all parcels notified. No request for an~~
 28 ~~addition shall be considered by the Zoning Administrator unless the~~
 29 ~~affidavit has been provided in accordance with this paragraph.~~

30
 31 Minor modifications to special permits are allowed when the Zoning
 32 Administrator determines that they substantially conform to the approved
 33 special permit and do not materially alter the character of the development. In
 34 making this determination, the Zoning Administrator may consider factors such
 35 as topography, engineering and design.

36
 37 Minor modifications may not:

38
 39 A. Remove any land from or add any land to the area subject to the special
 40 permit;

41
 42 B. Create, intensify, or expand any nonconformity with maximum or minimum
 43 requirements of the zoning district;
 44

- 1 C. Result in an increased parking requirement, except for any additional
2 parking required for building additions or modifications permitted under
3 Paragraphs 4 D and 4 K below;
4
- 5 D. Permit a more intensive use than that approved in the exception, except that
6 places of worship or places of worship with a child care center, nursery
7 school, private school of general or special education, may increase the
8 number of seats, parking spaces, and/or students up to ten (10) percent of
9 the approved amount, if not expressly prohibited by the special permit;
10
- 11 E. Permit uses other than those approved pursuant to the special permit, except
12 that accessory uses may be permitted;
13
- 14 F. Reduce the effectiveness of approved transitional screening, buffering,
15 landscaping, and/or open space;
16
- 17 G. Permit changes to bulk, mass, orientation, or location that adversely impact
18 the relationship of the development to adjacent property, except that:
19
- 20 (1) Modifications that reduce yards up to 10% may be considered,
21 provided that they do not adversely impact adjacent property; and
22
- 23 (2) Increases in height up to 10 feet and increases in percentages of rooftop
24 coverage may be permitted to exempt solar collectors and other
25 innovative energy and environmental technologies.
26
- 27 H. Increase the amount of clearing or grading for a stormwater management
28 facility, including any clearing or grading associated with spillways, inlets,
29 outfall pipes, or maintenance roads that reduces non-stormwater
30 management open space, tree save area, or landscaping area on the lot;
31
- 32 I. Expand hours of operation;
33
- 34 J. Expand the area or type of signage approved, although changes to color and
35 typeface may be considered provided they do not change the character of
36 the approved sign;
37
- 38 K. Include the addition of or to any building, except that accessory structures
39 clearly subordinate to the principal use and minor building additions,
40 including those for cellar space, may be permitted, provided that the total of
41 all such structures or additions cannot exceed the following:
42

(1) 500 square feet or five (5) percent of the approved gross floor area up to 2500 square feet, whichever is greater, when the total gross floor area approved does not exceed 250,000 square feet.

(2) One (1) percent of the approved gross floor area when the total gross floor area approved exceeds 250,000 square feet.

(3) 250 square feet of gross floor area of accessory storage structure uses when the total gross floor area approved is 10,000 square feet or less.

(4) The maximum allowable density or FAR in the zoning district; however, any increase in gross floor area resulting from replacing the materials of an existing building façade is not included in the calculation of FAR.

Anyone requesting a minor modification for a building addition must send notice of the request to the owners of all property abutting and across the street from the site, or portion thereof, to the last known address, as shown in the real estate assessment files of the Department of Tax Administration.

The notice must be delivered by hand or sent by certified mail, return receipt requested and include the letter of request submitted to the Zoning Administrator with all attachments, a statement that the request has been submitted, and where to call for additional information.

An affidavit from the requester must be sent to the Zoning Administrator affirming: that the required notice has been provided in accordance with the above; the date that the notice was delivered or sent; the names and addresses of all persons notified; and, the Tax Map references for all parcels notified. The Zoning Administrator will not consider any request for an addition that omits this affidavit.

When it is determined by the Zoning Administrator that a modification is not in substantial conformance with the approved special permit, the modification requires the approval of an amendment to the special permit in accordance with Sect. 8-014 below or a new special permit.

Amend Article 9, Special Exceptions, Part 0, General Provisions, by revising Sect. 9-004 to read, as follows:

9-004 Status of Special Exception Uses

1. ~~Once a~~ A special exception ~~has been approved, such~~ use may only be established in accordance with the special exception ~~such~~ approval. ~~and a~~ Any site plan, subdivision plat, Building Permit, Residential or Non-Residential Use Permit ~~hereafter~~ submitted for the development or use of the property in

accordance with the special exception ~~shall~~ must be in substantial conformance with the approved special exception, and no development or use ~~shall~~ may be approved by any County official in the absence of such conformance.

2. Once established, the use must be conducted in substantial conformance with the special exception, any conditions or restrictions imposed by the Board, and all other requirements of this Ordinance. Except as may be permitted under Paragraphs 3 and 4 below, no use ~~shall~~ may be enlarged, expanded, increased in intensity or relocated and no condition of the special exception ~~shall~~ may be ~~modified~~ amended unless an application is made and approved for an amendment to the special exception in accordance with Sect. 014 below or a new special exception is approved.
3. ~~Notwithstanding the above, a~~ Any modification to an approved and currently valid special exception to provide an accessibility improvement ~~shall~~ may be permitted and ~~shall~~ does not require approval of an amendment to the special exception or a new special exception.
4. ~~Minor modifications to an approved special exception may be permitted when it is determined by the Zoning Administrator that such are in substantial conformance with the approved special exception and that such: are in response to issues of topography, drainage, underground utilities, structural safety, layout, design, vehicular circulation, or requirements of the Virginia Department of Transportation or Fairfax County; or are accessory uses; or are accessory structures or minor building additions as permitted by Par. 4A(7) or 4B(7) below:~~
 - A. ~~For approved special exceptions for all uses, other than churches, chapels, temples, synagogues and other such places of worship (hereinafter places of worship) and places of worship with a child care center, nursery school or private school of general or special education the modifications shall, in no event:~~
 - (1) ~~Change the amount of land area or permit a more intensive use which shall include but not be limited to an expansion of the hours of operation or an increase in number of seats, dwellings, students or employees from that approved pursuant to the special exception; or~~
 - (2) ~~Result in an increased parking requirement, except for any additional parking which may be required for any building additions or modifications permitted under Par. 4A (7) below; or~~
 - (3) ~~Permit uses other than those approved pursuant to the special exception, except that accessory uses in accordance with this paragraph may be permitted; or~~

- (4) ~~Reduce the effectiveness of approved transitional screening, buffering, landscaping or open space; or~~
 - (5) ~~Permit changes to bulk, mass, orientation or location which adversely impact the relationship of the development or part thereof to adjacent property; or~~
 - (6) ~~Result in an increase in the amount of clearing and/or grading for a stormwater management facility, including any clearing and/or grading associated with spillways, inlets, outfall pipes or maintenance roads, that reduces non-stormwater management open space, tree save and/or landscaping area on the lot; or~~
 - (7) ~~Include the addition of any building or additions to buildings except that accessory structures clearly subordinate to the use, and minor additions to buildings may be permitted, provided that the sum total of all such structures or additions shall not exceed the following:~~
 - (a) ~~five (5) percent of the approved gross floor area or 500 square feet of gross floor area, whichever is less, when the total gross floor area shown on the approved special exception plat is less than 50,000 square feet; or~~
 - (b) ~~one (1) percent of the approved gross floor area when the total gross floor area shown on the approved special exception plat is 50,000 square feet or more; or~~
 - (c) ~~250 square feet of gross floor area of accessory storage structure uses when the total gross floor area shown on the approved special exception plat is 10,000 square feet or less; and~~
 - (d) ~~the maximum permitted FAR for the zoning district in which located; or~~
 - (e) ~~the maximum density permitted by the approved special exception.~~
- B. ~~For approved special exceptions for places of worship and places of worship with a child care center, nursery school or private school of general or special education, the modifications shall, in no event:~~
- (1) ~~Permit an expansion of the hours of operation from that approved pursuant to the special exception; or~~

- (2) ~~Permit an increase in the number of seats, parking spaces or students, if applicable, which exceeds more than ten (10) percent of the amount approved pursuant to the special exception; or~~
- (3) ~~Permit uses other than those approved pursuant to the special exception, except that accessory uses in accordance with this paragraph may be permitted; or~~
- (4) ~~Reduce the effectiveness of approved transitional screening, buffering, and landscaping or open space; or~~
- (5) ~~Permit changes to bulk, mass, orientation or location which adversely impact the relationship of the development or part thereof to adjacent property; or~~
- (6) ~~Result in an increase in the amount of clearing and/or grading for a stormwater management facility, including any clearing and/or grading associated with spillways, inlets, outfall pipes or maintenance roads, that reduces non stormwater management open space, tree save and/or landscaping area on the lot; or~~
- (7) ~~Include the addition of any building or additions to buildings except that accessory structures clearly subordinate to the use, and minor additions to buildings may be permitted, provided that:~~
 - (a) ~~the sum total of all such structures or additions shall not exceed the greater of 500 square feet of gross floor area, or five (5) percent of the approved gross floor area up to a maximum of 2500 square feet of gross floor area; and~~
 - (b) ~~the maximum permitted FAR for the zoning district shall not be exceeded.~~

~~C. For all approved special exception uses, any request for an addition shall require the provision of written notice by the requester in accordance with the following:~~

- (1) ~~the notice shall include the letter of request with all attachments as submitted to the Zoning Administrator, a statement that the request has been submitted, and where to call for additional information; and~~
- (2) ~~the notice shall be sent to the last known address of the owners, as shown in the real estate assessment files of the Department of Tax Administration, of all property abutting and across the street from the site, or portion thereof, which is the subject of the request, and~~

1 shall be delivered by hand or sent by certified mail, return receipt
2 requested.
3

4 ~~The request for an addition submitted to the Zoning Administrator shall~~
5 ~~include: an affidavit from the requester affirming that the required notice~~
6 ~~has been provided in accordance with the above; the date that the notice~~
7 ~~was delivered or sent; the names and addresses of all persons notified;~~
8 ~~and the Tax Map references for all parcels notified. No request for an~~
9 ~~addition shall be considered by the Zoning Administrator unless the~~
10 ~~affidavit has been provided in accordance with this paragraph.~~
11

12 Minor modifications to special exceptions are allowed when the Zoning
13 Administrator determines that they substantially conform to the approved
14 special exception and do not materially alter the character of the development.
15 In making this determination, the Zoning Administrator may consider factors
16 such as topography, engineering and design.
17

18 Minor modifications may not:
19

- 20 A. Remove any land from or add any land to the area subject to the special
21 exception;
22
- 23 B. Create, intensify, or expand any nonconformity with maximum or minimum
24 requirements of the zoning district;
25
- 26 C. Result in an increased parking requirement, except for any additional
27 parking required for building additions or modifications permitted under
28 Paragraphs 4 D and 4 K below;
29
- 30 D. Permit a more intensive use than that approved in the exception, except that
31 places of worship or places of worship with a child care center, nursery
32 school, private school of general or special education, may increase the
33 number of seats, parking spaces, and/or students up to ten (10) percent of
34 the approved amount, if not expressly prohibited by the special exception
35 conditions;
36
- 37 E. Permit uses other than those approved pursuant to the special exception,
38 except that accessory uses may be permitted;
39
- 40 F. Reduce the effectiveness of approved transitional screening, buffering,
41 landscaping, and/or open space;
42
- 43 G. Permit changes to bulk, mass, orientation, or location that adversely impact
44 the relationship of the development to adjacent property, except that:
45

1 (1) Modifications that reduce yards up to 10% may be considered,
2 provided that they do not adversely impact adjacent property; and

3
4 (2) Increases in height up to 10 feet and increases in percentages of rooftop
5 coverage may be permitted to exempt solar collectors and other energy
6 and environmental innovative technologies.

7
8 H. Increase the amount of clearing or grading for a stormwater management
9 facility, including any clearing or grading associated with spillways, inlets,
10 outfall pipes, or maintenance roads that reduces non-stormwater
11 management open space, tree save area, or landscaping area on the lot;

12
13 I. Expand hours of operation;

14
15 J. Expand the area or type of signage approved, although changes to color and
16 typeface may be considered provided they do not change the character of
17 the approved sign;

18
19 K. Include the addition of or to any building, except that accessory structures
20 clearly subordinate to the principal use and minor building additions,
21 including those for cellar space, may be permitted, provided that the total of
22 all such structures or additions cannot exceed the following:

23
24 (1) 500 square feet or five (5) percent of the approved gross floor area up
25 to 2500 square feet, whichever is greater, when the total gross floor
26 area approved does not exceed 250,000 square feet.

27
28 (2) One (1) percent of the approved gross floor area when the total gross
29 floor area approved exceeds 250,000 square feet.

30
31 (3) 250 square feet of gross floor area of accessory storage structure uses
32 when the total gross floor area approved is 10,000 square feet or less.

33
34 (4) The maximum allowable density or FAR in the zoning district,
35 however, any increase in gross floor area resulting from replacing the
36 materials of an existing building façade is not included in the
37 calculation of FAR.

38
39 Anyone requesting a minor modification for a building addition must send
40 notice of the request to the owners of all property abutting and across the
41 street from the site, or portion thereof, to the last known address, as shown
42 in the real estate assessment files of the Department of Tax Administration.

43
44 The notice must be delivered by hand or sent by certified mail, return receipt
45 requested and include the letter of request submitted to the Zoning
46 Administrator with all attachments, a statement that the request has been

submitted, and where to call for additional information.

An affidavit from the requester must be sent to the Zoning Administrator affirming: that the required notice has been provided in accordance with the above; the date that the notice was delivered or sent; the names and addresses of all persons notified; and, the Tax Map references for all parcels notified. The Zoning Administrator will not consider any request for an addition that omits this affidavit.

When it is determined by the Zoning Administrator that a modification is not in substantial conformance with the approved special exception, the modification requires the approval of an amendment to the special exception in accordance with Sect. 9-014 below or a new special exception.

Amend Article 16, Development Plans, as follows:

- Amend Part 2, Procedures for Review and Approval of a PRC District as follows:

- Amend Sect. 16-202, Rezoning to a PRC District, by revising Par. 9 as follows:

9. Once a development plan has been approved, all subsequent approvals, uses and structures ~~shall~~ must be in substantial conformance with the approved development plan and any development conditions associated with such approval. Should there be cause for amendment of the development plan or any portion thereof, such amendment ~~shall~~ will be processed as a new submission. A development plan amendment ~~application~~ may cover all or be filed on a portion of the property subject to an approved development plan, ~~upon a determination by the Zoning Administrator that the amendment (a) would not adversely affect the use of the property subject to the development plan and conditions but not incorporated into the amendment application, (b) would not inhibit, adversely affect, or preclude in any manner the fulfillment of the development plan and conditions applicable to the area not incorporated into the amendment application, and (c) would not increase the overall approved density/intensity for the development.~~ In its review of a request that does not cover all of the property subject to an approved development plan, the Board should consider whether the request would have an adverse impact on the remainder of the property in terms of (a) the approved use, (b) fulfillment of conditions, (c) vehicular and pedestrian circulation, connectivity, landscaping and streetscape, and (d) the approved density or intensity. The portion of the development plan and previously approved conditions which are not subject to the amendment request will remain in full force and effect.

- Amend Sect. 16-203, PRC Plan Approval, to read as follows:

1. Subsequent to the approval of a rezoning application, a PRC plan ~~shall be~~ is required for those uses as set forth in Par. 2 below. The Board may approve a

PRC plan subject to the provisions of this Part and Sect. 18-110. ~~Such~~ A PRC plan ~~shall~~ may not be approved by the Board until the rezoning application and development plan have been approved by the Board. However, a PRC plan may be filed with and included in the processing of the rezoning application and development plan.

All PRC plans ~~shall~~ must be in accordance with the approved rezoning and development plan, any conditions or modifications that may have been approved by the Board, the design standards of Sect. 102 above, the applicable objectives and regulations of the PRC District and the provisions of Sect. 303 below.

2. A PRC plan ~~shall be~~ is required for all uses, except the following:
 - A. Single family detached dwellings, provided the general street and lot layout are shown on the approved development plan.
 - B. Additions to existing single family attached or detached dwellings or accessory structures related to such existing single family dwellings.
 - C. Additions to existing buildings or uses other than single family dwellings, when such additions do not exceed 2000 square feet or ten (10) percent of the gross floor area of the existing building or use, whichever is less.
 - D. Additions or changes to non-structural site elements such as transitional screening and parking and loading provided the area of such addition or change does not exceed ten (10) percent of the existing area occupied by such site element. Parking redesignation plans and parking tabulation revisions are also exempt from the requirement for a PRC plan regardless of the area of such change.
 - E. Minor accessory structures and uses in open space areas such as benches, gazebos, playground equipment, and bus shelters.
 - F. Those special permit uses and special exception uses which do not require a site plan as set forth in Article 8 or Article 9, respectively.
 - G. Any permitted use on a temporary basis for a period not to exceed one (1) year.

~~Notwithstanding the above, a~~ A PRC plan ~~shall~~ is not be required for additions and alterations to provide an accessibility improvement.
3. A PRC plan may be prepared and submitted for the entire planned development at one time or for the various segments thereof, and each such plan ~~shall~~ must be submitted in twenty-three (23) copies to the Zoning Administrator.

4. Upon determination by the Zoning Administrator that the content of the PRC plan is complete in accordance with the requirements of Sect. 303 below, the plan ~~shall~~ will be accepted and submitted for comment and review to appropriate departments and agencies. Upon completion of such administrative review, the plan ~~shall~~ will be submitted to the Planning Commission.
5. The Planning Commission ~~shall~~ may consider the PRC plan in accordance with the standards set forth in Par. 1 above, and ~~shall~~ will hold a public hearing thereon. In the event the PRC plan is not filed with and included in the processing of the rezoning application, the Planning Commission will hold a public hearing no later than six (6) months from the date the plan has been accepted. Subsequent to the public hearing, the Commission ~~shall~~ will transmit the PRC plan to the Board with its recommendation to approve, approve with modifications or disapprove.
6. The Board ~~shall~~ will consider the PRC plan in accordance with the standards set forth in Par. 1 above, and ~~shall~~ will hold a public hearing ~~thereon~~. The Board ~~shall~~ may approve, approve with modifications or disapprove the PRC plan.
7. Once the PRC plan has been approved, all subsequent approvals, uses and structures ~~shall~~ must be in substantial conformance with the approved PRC plan and any development conditions associated with such approval.
8. Minor modifications to an approved rezoning and development plan may be permitted in a PRC plan when it is determined by the Zoning Administrator that they substantially conform to the approved rezoning and development plan and do not materially alter the character of the development. In making this determination, the Zoning Administrator may consider factors such as topography, engineering, and design. ~~such are in substantial conformance with the approved rezoning and development plan and that such: are in response to issues of topography, drainage, underground utilities, structural safety, layout, design, vehicular circulation, or requirements of the Virginia Department of Transportation or Fairfax County; or are accessory uses; or are accessory structures or minor building additions as permitted by Par. 8A(7) or 8B(7) below.~~
 - A. ~~For approved rezonings and development plans for all uses, other than churches, chapels, temples, synagogues and other such places of worship (hereinafter places of worship) and places of worship with a child care center, nursery school or private school of general or special education, the modifications shall, in no event:~~
 - (1) ~~Permit a more intensive use than that approved pursuant to the approved rezoning and development plan; or~~

- (2) ~~Result in an increased parking requirement, except for any additional parking which may be required for any building additions or modifications permitted under Par. 8A(7) below; or~~
- (3) ~~Permit additional uses other than those approved pursuant to the approved rezoning and development plan, except that accessory uses in accordance with this paragraph may be permitted; or~~
- (4) ~~Reduce the effectiveness of approved transitional screening, buffering, landscaping or open space; or~~
- (5) ~~Permit changes to bulk, mass, orientation or location which adversely impact the relationship of the development or part thereof to adjacent property; or~~
- (6) ~~Result in an increase in the amount of clearing and/or grading for a stormwater management facility, including any clearing and/or grading associated with spillways, inlets, outfall pipes or maintenance roads, that reduces non-stormwater management open space, tree save and/or landscaping area on the lot; or~~
- (7) ~~Include the addition of any building or additions to buildings except that accessory structures clearly subordinate to the use and minor additions to buildings may be permitted, provided that the sum total of all such structures or additions shall not exceed the following:~~
 - (a) ~~five (5) percent of the approved gross floor area or 500 square feet of gross floor area, whichever is less, when the total gross floor area shown on the approved development plan is less than 50,000 square feet; or~~
 - (b) ~~one (1) percent of the approved gross floor area when the total gross floor area shown on the approved development plan is 50,000 square feet or more; or~~
 - (c) ~~250 square feet of gross floor area of accessory storage structure uses when the total gross floor area shown on the approved development plan is 10,000 square feet or less; and~~
 - (d) ~~the maximum permitted density; or~~
 - (e) ~~the maximum permitted FAR.~~

1 B. ~~For approved rezonings and development plans for places of worship and~~
2 ~~places of worship with a child care center, nursery school or private~~
3 ~~school of general education, the modifications shall, in no event:~~

4
5 (1) ~~Permit an expansion of the hours of operation from that approved~~
6 ~~pursuant to the approved rezoning and development plan; or~~

7
8 (2) ~~Permit an increase in the number of seats, parking spaces or~~
9 ~~students, if applicable, which exceeds more than ten (10) percent of~~
10 ~~the amount approved pursuant to the rezoning and development~~
11 ~~plan; or~~

12
13 (3) ~~Permit uses other than those approved pursuant to the rezoning and~~
14 ~~development plan, except that accessory uses in accordance with~~
15 ~~this paragraph may be permitted; or~~

16
17 (4) ~~Reduce the effectiveness of approved transitional screening,~~
18 ~~buffering, and landscaping or open space; or~~

19
20 (5) ~~Permit changes to bulk, mass, orientation or location which~~
21 ~~adversely impact the relationship of the development or part thereof~~
22 ~~to adjacent property; or~~

23
24 (6) ~~Result in an increase in the amount of clearing and/or grading for a~~
25 ~~stormwater management facility, including any clearing and/or~~
26 ~~grading associated with spillways, inlets, outfall pipes or~~
27 ~~maintenance roads, that reduces non-stormwater management open~~
28 ~~space, tree save and/or landscaping area on the lot; or~~

29
30 (7) ~~Include the addition of any building or additions to buildings except~~
31 ~~that accessory structures clearly subordinate to the use, and minor~~
32 ~~additions to buildings may be permitted, provided that:~~

33
34 (a) ~~the sum total of all such structures or additions shall not exceed~~
35 ~~the greater of 500 square feet of gross floor area, or five (5)~~
36 ~~percent of the approved gross floor area up to a maximum of~~
37 ~~2500 square feet of gross floor area; and~~

38
39 (b) ~~the maximum permitted FAR for the zoning district shall not~~
40 ~~be exceeded.~~

41
42 C. ~~For all approved rezonings and development plans, any request for an~~
43 ~~addition shall require the provision of written notice by the requester in~~
44 ~~accordance with the following:~~
45

- (1) ~~the notice shall include the letter of request with all attachments as submitted to the Zoning Administrator, a statement that the request has been submitted, and where to call for additional information; and~~
- (2) ~~the notice shall be sent to the last known address of the owners, as shown in the real estate assessment files of the Department of Tax Administration, of all property abutting and across the street from the site, or portion thereof, which is the subject of the request, and shall be delivered by hand or sent by certified mail, return receipt requested.~~

~~The request for an addition submitted to the Zoning Administrator shall include: an affidavit from the requester affirming that the required notice has been provided in accordance with the above; the date that the notice was delivered or sent; the names and addresses of all persons notified; and the Tax Map references for all parcels notified. No request for an addition shall be considered by the Zoning Administrator unless the affidavit has been provided in accordance with this paragraph.~~

Minor modifications may not:

- A. Remove any land from or add any land to the area subject to the rezoning or development plan;
- B. Create, intensify, or expand any nonconformity with maximum or minimum requirements of the zoning district;
- C. Result in an increased parking requirement, except for any additional parking required for building additions or modifications permitted under Paragraphs 4 D and 4 K below;
- D. Permit a more intensive use than that approved in the proffered conditions, except that places of worship or places of worship with a child care center, nursery school, private school of general or special education, may increase the number of seats, parking spaces, and/or students up to ten (10) percent of the proffered amount, if not expressly prohibited by the rezoning or development plan;
- E. Permit uses other than those approved pursuant to the rezoning or development plan except that accessory uses may be permitted;
- F. Reduce the effectiveness of approved transitional screening, buffering, landscaping, and/or open space;

1 G. Permit changes to bulk, mass, orientation, or location that adversely
2 impact the relationship of the development to adjacent property, except
3 that:

4
5 (1) Modifications that reduce proffered yards up to 10% may be
6 considered, provided that they do not adversely impact adjacent
7 property; and

8
9 (2) Increases in height up to 10 feet and increases in percentages of
10 rooftop coverage may be permitted to exempt solar collectors and
11 other innovative energy and environmental technologies.

12
13 H. Increase the amount of clearing or grading for a stormwater management
14 facility, including any clearing or grading associated with spillways,
15 inlets, outfall pipes, or maintenance roads that reduces non-stormwater
16 management open space, tree save area, or landscaping area on the lot;

17
18 I. Expand hours of operation;

19
20 J. Expand the area or type of signage approved, although changes to color
21 and typeface may be considered provided they do not change the
22 character of the approved sign;

23
24 K. Include the addition of or to any building, except that accessory structures
25 clearly subordinate to the principal use and minor building additions,
26 including those for cellar space, may be permitted, provided that the total
27 of all such structures or additions cannot exceed the following:

28
29 (1) 500 square feet or five (5) percent of the approved gross floor area
30 up to 2500 square feet, whichever is greater, when the total gross
31 floor area approved does not exceed 250,000 square feet.

32
33 (2) One (1) percent of the approved gross floor area when the total gross
34 floor area approved exceeds 250,000 square feet or more.

35
36 (3) 250 square feet of gross floor area of accessory storage structure uses
37 when the total gross floor area approved is 10,000 square feet or less.

38
39 (4) The maximum allowable density or FAR in the zoning district,
40 however, any increase in gross floor area resulting from replacing the
41 materials of an existing building façade is not included in the
42 calculation of FAR.

43
44 Anyone requesting a minor modification for a building addition must send

notice of the request to the owners of all property abutting and across the street from the site, or portion thereof, to the last known address, as shown in the real estate assessment files of the Department of Tax Administration.

The notice must be delivered by hand or sent by certified mail, return receipt requested and include the letter of request submitted to the Zoning Administrator with all attachments, a statement that the request has been submitted, and where to call for additional information.

An affidavit from the requester must be sent to the Zoning Administrator affirming: that the required notice has been provided in accordance with the above; the date that the notice was delivered or sent; the names and addresses of all persons notified; and, the Tax Map references for all parcels notified. The Zoning Administrator will not consider any request for an addition that omits this affidavit.

When it is determined by the Zoning Administrator that a modification is not in substantial conformance with the approved rezoning or development plan, such modification ~~shall~~ will require the resubmission and amendment of the development plan in accordance with Sect. 202 above.

9. When the Board approves a minor variation to a proffered condition in accordance with Sect. 18-204, the variation is deemed to apply to any approved development plan or PRC plan and does not require approval of a separate amendment.

~~910. Notwithstanding Par. 8 above, a~~ Any modification to provide an accessibility improvement ~~shall be~~ is permitted ~~and shall not require~~ without requiring approval of a development plan amendment.

~~1011.~~ Once a PRC plan has been approved, any proposed amendment ~~shall be~~ is subject to Board of Supervisors approval in accordance with the provisions of this section.

~~1112.~~ Preliminary site plans approved prior to December 6, 1994 and preliminary site plans approved pursuant to the grandfather provisions for Zoning Ordinance Amendment #94-263 ~~shall be~~ are deemed to be approved PRC plans. Additionally, PRC plans processed and approved prior to March 27, 2007 ~~shall be~~ are deemed to be approved PRC plans and are valid for three (3) years from the date of approval. However, if a site plan for all or a portion of the area is approved during that period, the approved PRC plan for the corresponding area ~~shall~~ will remain valid for the life of the site plan.

- **Amend Part 4, Procedures for Review and Approval of All P Districts Except the PRC District, as follows:**

- 1 - **Amend Sect. 16-401, Conceptual Development Plan Approval, by revising Par. 11,**
 2 **to read as follows:**

3
 4 11. Once a conceptual development plan has been approved, all subsequent
 5 approvals, uses and structures ~~shall~~ must be in substantial conformance with
 6 the approved conceptual development plan and any development conditions
 7 associated with such approval. Should there be cause for amendment of the
 8 conceptual development plan or any portion thereof, such amendment ~~shall~~ will
 9 be processed as a new submission; provided, however, that the Zoning
 10 Administrator may waive any submission requirement if such requirement is
 11 not necessary for an adequate review of the conceptual development plan
 12 amendment application. A conceptual development plan amendment
 13 application may cover all or be filed on a portion of the property subject to an
 14 approved conceptual development plan, ~~upon a determination by the Zoning~~
 15 ~~Administrator that the amendment (a) would not adversely affect the use of the~~
 16 ~~property subject to the conceptual development plan and conditions but not~~
 17 ~~incorporated into the amendment application, (b) would not inhibit, adversely~~
 18 ~~affect, or preclude in any manner the fulfillment of the conceptual development~~
 19 ~~plan and conditions applicable to the area not incorporated into the amendment~~
 20 ~~application, (c) would not adversely affect the vehicular and pedestrian~~
 21 ~~circulation, connectivity, landscaping and streetscape applicable to the area not~~
 22 ~~incorporated into the amendment application, and (d) would not increase the~~
 23 ~~overall approved density/intensity for the development, provided, however,~~
 24 ~~within the PTC District, for a multiple phased development, an increase in the~~
 25 ~~intensity may be approved for any portion of such development, provided it~~
 26 ~~does not adversely affect the intensity applicable to the area not incorporated~~
 27 ~~into the amendment application. In its review of a request that does not cover~~
 28 ~~all of the property subject to an approved conceptual development plan, the~~
 29 ~~Board should consider whether the request would have an adverse impact on~~
 30 ~~the remainder of the property in terms of (a) the approved use, (b) fulfillment~~
 31 ~~of conditions, (c) vehicular and pedestrian circulation, connectivity,~~
 32 ~~landscaping and streetscape, and (d) the approved density or intensity. The~~
 33 portion of the conceptual development plan and previously approved
 34 conditions which are not subject to the amendment request shall remain in full
 35 force and effect.

- 36
 37 - **Amend Sect. 16-403, Site Plan/Subdivision Plat Preparation, Building Permit,**
 38 **Residential Use Permit and Non-Residential Use Permit, to read as follows:**

39
 40 Approval of a final development plan ~~shall be~~ is a prerequisite and ~~shall~~
 41 constitutes authority for the applicant to prepare a site plan or a subdivision plat. Approval of
 42 site plans or subdivision plats and the issuance of Building Permits, Residential
 43 and/or Non-Residential Use Permits ~~shall~~ must be in substantial conformance with
 44 the final development plan, and in accordance with the provisions of this Ordinance
 45 and Chapter 101 of The Code, The Subdivision Ordinance, and the following:

1. Separate site plans or subdivision plats ~~shall~~ must be submitted for each section of the planned development in accordance with the approved final development plan. For development within the PTC District subject to a phasing plan, each site plan or subdivision plat ~~shall~~ must provide a statement in tabular form indicating the amount of gross floor area, FAR and/or number of dwelling units approved for each specific phase and the overall development subject to the rezoning to the PTC District and ~~shall~~ must also include the amount of gross floor area, FAR and/or number of dwelling units constructed within each phase and for the overall development as of the date of the submission of the site plan or subdivision plat.
2. Except in the PTC District, when a planned development is to be constructed in sections, the total area of open space provided at any stage of development ~~shall~~ must bear substantially the same relationship to the total open space to be provided in the entire planned development as the sections completed or under development bear to the entire planned development.
3. Minor deviations from the provisions of this Ordinance and Chapter 101 of The Code, The Subdivision Ordinance, may be permitted, but only where ~~such~~ the deviations are indicated on the approved final development plan.
4. ~~Minor modifications to an approved final development plan may be permitted when it is determined by the Zoning Administrator that such are in substantial conformance with the approved final development plan and that such: are in response to issues of topography, drainage, underground utilities, structural safety, layout, design, vehicular circulation, or requirements of the Virginia Department of Transportation or Fairfax County; or are accessory uses; or are accessory structures or minor building additions as permitted by Par. 4A(7) or 4(B)7 below.~~
 - A. ~~For approved final development plans for all uses, other than churches, chapels, temples, synagogues and other such places of worship (hereinafter places of worship) and places of worship with a child care center, nursery school or private school of general or special education, the modifications shall, in no event:~~
 - (1) ~~Permit a more intensive use than that approved pursuant to the approved conceptual development plan, final development plan or any applicable proffers or development conditions; or~~
 - (2) ~~Result in an increased parking requirement, except for any additional parking which may be required for any building additions or modifications permitted under Par. 4A(7) below; or~~
 - (3) ~~Permit additional uses other than those approved pursuant to the approved conceptual development plan, final development plan, or~~

any applicable proffers or development conditions, except that accessory uses in accordance with this paragraph may be permitted; or

- (4) ~~Reduce the effectiveness of approved transitional screening, buffering, landscaping or open space; or~~
- (5) ~~Permit changes to bulk, mass, orientation or location which adversely impact the relationship of the development or part thereof to adjacent property; or~~
- (6) ~~Result in an increase in the amount of clearing and/or grading for a stormwater management facility, including any clearing and/or grading associated with spillways, inlets, outfall pipes or maintenance roads, that reduces non-stormwater management open space, tree save and/or landscaping area on the lot; or~~
- (7) ~~Include the addition of any building or additions to buildings except that accessory structures clearly subordinate to the use and minor additions to buildings may be permitted, provided that the sum total of all such structures or additions shall not exceed the following:~~
 - (a) ~~five (5) percent of the approved gross floor area or 500 square feet of gross floor area, whichever is less, when the total gross floor area shown on the approved final development plan is less than 50,000 square feet; or~~
 - (b) ~~one (1) percent of the approved gross floor area when the total gross floor area shown on the approved final development plan is 50,000 square feet or more; or~~
 - (c) ~~250 square feet of gross floor area of accessory storage structure uses when the total gross floor area shown on the approved final development plan is 10,000 square feet or less; and~~
 - (d) ~~the land area designated for commercial uses in the PDH District or the maximum FAR provisions in the PDC, PRM and PTC Districts; or~~
 - (e) ~~the maximum permitted density.~~

B. For approved final development plans for places of worship and places of worship with a child care center, nursery school or private school of general or special education, the modifications shall, in no event:

- (1) ~~Permit an expansion of the hours of operation from that approved pursuant to the approved conceptual development plan, final development plan or any applicable proffers or development conditions; or~~
 - (2) ~~Permit an increase in the number of seats, parking spaces or students, if applicable, which exceeds more than ten (10) percent of the amount approved pursuant to the conceptual development plan, final development plan or any applicable proffers or development conditions; or~~
 - (3) ~~Permit uses other than those approved pursuant to the conceptual development plan, final development plan, or any applicable proffers or development conditions, except that accessory uses in accordance with this paragraph may be permitted; or~~
 - (4) ~~Reduce the effectiveness of approved transitional screening, buffering, and landscaping or open space; or~~
 - (5) ~~Permit changes to bulk, mass, orientation or location which adversely impact the relationship of the development or part thereof to adjacent property; or~~
 - (6) ~~Result in an increase in the amount of clearing and/or grading for a stormwater management facility, including any clearing and/or grading associated with spillways, inlets, outfall pipes or maintenance roads, that reduces non-stormwater management open space, tree save and/or landscaping area on the lot; or~~
 - (7) ~~Include the addition of any building or additions to buildings except that accessory structures clearly subordinate to the use, and minor additions to buildings may be permitted, provided that:~~
 - (a) ~~the sum total of all such structures or additions shall not exceed the greater of 500 square feet of gross floor area, or five (5) percent of the approved gross floor area up to a maximum of 2500 square feet of gross floor area; and~~
 - (b) ~~the maximum permitted FAR for the zoning district shall not be exceeded.~~
- C. ~~For all approved final development plans, any request for an addition shall require the provision of written notice by the requester in accordance with the following:~~
- (1) ~~the notice shall include the letter of request with all attachments as~~

submitted to the Zoning Administrator, a statement that the request has been submitted, and where to call for additional information; and

- (2) the notice shall be sent to the last known address of the owners, as shown in the real estate assessment files of the Department of Tax Administration, of all property abutting and across the street from the site, or portion thereof, which is the subject of the request, and shall be delivered by hand or sent by certified mail, return receipt requested.

The request for an addition submitted to the Zoning Administrator shall include: an affidavit from the requester affirming that the required notice has been provided in accordance with the above; the date that the notice was delivered or sent; the names and addresses of all persons notified; and the Tax Map references for all parcels notified. No request for an addition shall be considered by the Zoning Administrator unless the affidavit has been provided in accordance with this paragraph.

Minor modifications to a final development plan are allowed when the Zoning Administrator determines that they substantially conform to the approved final development plan and do not materially alter the character of the development. In making this determination, the Zoning Administrator may consider factors such as topography, engineering and design.

Minor modifications may not:

- A. Remove any land from or add any land to the area subject to the proffered conditions;
- B. Create, intensify, or expand any nonconformity with maximum or minimum requirements of the zoning district;
- C. Result in an increased parking requirement, except for any additional parking required for building additions or modifications permitted under Par. 4 D and 4 K below;
- D. Permit a more intensive use than that approved in the proffered conditions, except that Places of Worship or Places of Worship with a Child Care Center, Nursery School, Private School of General or Special Education, may increase the number of seats, parking spaces, and/or students up to ten (10) percent of the proffered amount, if not expressly prohibited by the proffered conditions;
- E. Permit uses other than those approved pursuant to the final development plan except that accessory uses may be permitted;

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- F. Reduce the effectiveness of approved transitional screening, buffering, landscaping, and/or open space;
- G. Permit changes to bulk, mass, orientation, or location that adversely impact the relationship of the development to adjacent property, except that:
- (1) Modifications that reduce proffered yards up to 10% may be considered, provided that they do not adversely impact adjacent property; and
- (2) Increases in height up to 10 feet and increases in percentages of rooftop coverage may be permitted to exempt solar collectors and other innovative technologies.
- H. Increase the amount of clearing or grading for a stormwater management facility, including any clearing or grading associated with spillways, inlets, outfall pipes, or maintenance roads that reduces non-stormwater management open space, tree save area, or landscaping area on the lot;
- I. Expand hours of operation;
- J. Expand the area of signage approved, although changes to color and typeface may be considered provided they do not change the character of the approved sign;
- K. Include the addition of or to any building, except that accessory structures clearly subordinate to the principal use and minor building additions, including those for cellar space, may be permitted, provided that the total of all such structures or additions cannot exceed the following:
- (1) 500 square feet or five (5) percent of the approved gross floor area up to 2500 square feet, whichever is greater, when the total gross floor area approved does not exceed 250,000 square feet.
- (2) One (1) percent of the approved gross floor area when the total gross floor area approved exceeds 250,000 square feet.
- (3) 250 square feet of gross floor area of accessory storage structure uses when the total gross floor area approved is 10,000 square feet or less.
- (4) Exceed the maximum allowable density or FAR in the zoning district, however, any increase in gross floor area resulting from replacing the materials of an existing building façade is not included

1 in the calculation of FAR.

2
3 Anyone requesting a minor modification for a building addition must send
4 notice of the request to the owners of all property abutting and across the street
5 from the site, or portion thereof, to the last known address, as shown in the real
6 estate assessment files of the Department of Tax Administration.

7
8 The notice must be delivered by hand or sent by certified mail, return receipt
9 requested and include the letter of request submitted to the Zoning
10 Administrator with all attachments, a statement that the request has been
11 submitted, and where to call for additional information.

12
13 An affidavit from the requester must be sent to the Zoning Administrator
14 affirming: that the required notice has been provided in accordance with the
15 above; the date that the notice was delivered or sent; the names and addresses
16 of all persons notified; and, the Tax Map references for all parcels notified. The
17 Zoning Administrator will not consider any request for an addition that omits
18 this affidavit.

19
20 When it is determined by the Zoning Administrator that a modification is not
21 in substantial conformance with the approved final development plan, such
22 modification ~~shall~~ requires the resubmission and amendment of the final
23 development plan in accordance with Sect. 402 above.

24
25 5. When the Board approves a minor variation to a proffered condition in
26 accordance with Section 18-204, the variation is deemed to apply to any
27 approved final development plan or final development plan condition and not
28 require approval of a separate amendment to that plan.

29
30 ~~5.6. Notwithstanding the above, a~~ Any modification to an approved final
31 development plan to provide an accessibility improvement shall be permitted
32 and ~~shall~~ not require approval of an amendment to the final development plan.

33
34 6.7. Notwithstanding the above, any alteration to a single family dwelling unit shall
35 be governed by the regulations of that R zoning district which most closely
36 characterizes the given development as determined by the Zoning
37 Administrator. If, however, the desired alteration is not in substantial
38 conformance with the approved final development plan, it will be allowed only
39 after amendment of the final development plan in accordance with the
40 provisions set forth in Sect. 402 above.

41
42 **Amend Article 18, Administration, Amendments, Violations and Penalties, as follows:**

- 43
44 - **Amend Part 1, Administration, Sect. 18-106 Application and Zoning Compliance**
45 **Letter Fees, by revising Par. 9 as follows:**
46

9. Interpretation of approved zoning application or minor variation to proffered conditions: \$520

- Amend Part 2, Amendments, as follows:

- Amend the entirety of Sections 18-201, 18-202, and 18-203, to read as follows:

18-201 Initiation of Amendments

The text of this Ordinance and any zoning district boundary shown on the Zoning Map may be amended by the Board, provided ~~that proceedings for any the~~ amendment ~~shall be~~ is initiated ~~only~~ in the following manner:

1. ~~By the a~~ Adoption by the Planning Commission of a resolution of intention to propose an amendment; or
2. ~~By the a~~ Adoption by the Board of a resolution of intention to amend, which resolution, upon adoption, ~~shall be~~ is referred to the Planning Commission; or
3. ~~By the f~~Filing with the Zoning Administrator of an application submitted by the owners, contract purchasers, or a condominium in accordance with the provisions of Sect. 2-518, or their agents, of the land proposed to be rezoned, which application ~~shall~~ must be sworn to under oath or affirmation and acknowledged before a notary public.

18-202 Submission Requirements

All applications for amendments to the Zoning Map, initiated ~~in the manner prescribed by under~~ Par. 3 of Sect. 201 above, except as qualified below, ~~shall must~~ shall must be filed with the Zoning Administrator and shall include the following information:

1. ~~Four (4) copies of an~~ One (1) original completed application signed by the applicant on forms provided by the County, ~~completed and signed by the applicant.~~
2. Four (4) copies of a certified plat of the subject property containing the following information:
 - A. Boundaries of the entire property, with bearings and distances of the perimeter property lines, and of each existing and proposed zoning district.
 - B. Total area of property and of each existing and proposed zoning district presented in square feet or acres.

- C. Scale and north arrow, with north, to the extent feasible, oriented to the top of the plat.
 - D. Location of all existing buildings and structures.
 - E. Names and route numbers of all boundary roads or streets, and the width of existing right(s)-of-way.
 - F. Seal and signature of person preparing the plat.
 3. Four (4) copies of a legal description of the property, including metes and bounds of each zoning district proposed.
 4. One (1) copy of the current Fairfax County Zoning Section Sheet(s) covering the area of the application, at a scale of one inch equals five hundred feet (1" = 500'), showing:
 - A. Boundaries of the subject property outlined in red.
 - B. Major thoroughfare access to the property and any known plans for future widening as indicated in the adopted comprehensive plan or a plan prepared by the Virginia Department of Transportation.
- If more than one (1) Zoning Section Sheet is required to cover the subject property, the sheets must be attached so as to create an intelligible map.
5. For all applications proposing residential development, five (5) copies of a map identifying classification of soil types at a scale not less than one inch equals five hundred feet (1" = 500'), based upon the County of Fairfax Soils Identification Maps.
 6. For all applications, except an application involving an amendment constituting the adoption of a comprehensive zoning plan, an ordinance applicable throughout the County, or an application initiated by the Board under Par. 2 of Sect. 201 above that involves more than ten (10) parcels that are owned by different individuals, trusts, corporations or other entities, an affidavit, as presented on an affidavit form approved by the Board of Supervisors and provided by the County, must be completed, signed by the applicant or the applicant's authorized agent and notarized, including a statement indicating whether or not a member of the Board or Planning Commission, or any member of his or her immediate household owns or has any financial interest in the subject land either individually, by ownership in stock in a corporation owning such land, or through an interest in a partnership owning such land. If the applicant's agent completes the application or affidavit on the applicant's behalf, a certified statement from the applicant must be submitted showing the agent's authorization to act in such capacity.

Prior to each public hearing on the application, the applicant must reaffirm the affidavit required by this Paragraph in accordance with the reaffirmation procedure outlined on the affidavit form approved by the Board of Supervisors and provided by the County.

Additionally, for developments which are subject to the provisions of Part 8 of Article 2, the owner and/or applicant must submit an affidavit which includes:

- A. The names of the owners of each parcel of the sites or portions thereof at one location, as such terms are defined in Par. 1 of Sect. 2-802; and
 - B. The Fairfax County Property Identification Map Number, parcel size and zoning district classification for each parcel which is part of the site or portion thereof.
7. An application filed by an agent, contract purchaser or lessee must include a notarized written statement signed by the property owner indicating endorsement of the application. For a condominium, a notarized written statement by the property owner must be provided in accordance with the provisions of Sect. 2-518.
 8. Six (6) copies of an environmental assessment/impact statement as required by the provisions of Part 5 below.
 9. Four (4) copies of a written statement of justification, dated and signed.
 - ~~10. If the proposed amendment is for a rezoning to an R, C or I district, twenty-three (23) copies of a generalized development plan, certified by a professional engineer, architect, landscape architect or land surveyor authorized to practice as such by the State, including any resubmissions of the plan and supporting graphics, to be submitted in accordance with the provisions of Sect. 203 below, and to include the information set forth below. One 8 1/2" x 11" reduction of the plan, any resubmissions and supporting graphics shall also be submitted. However, the requirement for such development plan may be modified or waived by the Zoning Administrator when it has been determined that (a) such plan is not necessary for the adequate review of the rezoning application, and (b) such development as is proposed upon rezoning is of a nature as not to have a significant adverse impact upon the community or upon the public facilities available to the property.~~

~~A generalized development plan, at a scale of not less than one inch equals one hundred feet (1" = 100'), which scale may be modified by the Zoning Administrator based on the nature and/or size of the application, shall show the following:~~

- 1 A. ~~Scale and north arrow, with north, to the extent feasible, oriented to the~~
2 ~~top of the plan.~~
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- 4 B. ~~Except for single family detached dwellings, the approximate location~~
5 ~~and dimensions of all proposed structures and uses, to include the~~
6 ~~maximum height in feet of all structures and penthouses, and a graphic~~
7 ~~depiction of the angle of bulk plane, if applicable.~~
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- 9 C. ~~The proposed traffic circulation plan including major streets and major~~
10 ~~pedestrian, bike and/or bridle paths, and the location of all trails required~~
11 ~~by the adopted comprehensive plan.~~
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- 13 D. ~~All proposed major open space areas and the approximate location of all~~
14 ~~proposed community and public facilities.~~
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- 16 E. ~~The proposed plan for all major sanitary sewer improvements.~~
- 17
- 18 F. ~~Approximate location, estimated size of footprint in acres and type of all~~
19 ~~proposed stormwater management facilities, including the full extent~~
20 ~~of side slopes, embankments, spillways, dams, and approximate water~~
21 ~~surface elevation for design storms, if applicable. In addition, a~~
22 ~~preliminary stormwater management plan that includes information~~
23 ~~about the adequacy of downstream drainage, including the sufficiency of~~
24 ~~capacity of any storm drainage pipes and other conveyances into which~~
25 ~~stormwater runoff will be conveyed. When there is 2500 square feet or~~
26 ~~more of land disturbing activity on the entire application property, in~~
27 ~~addition to the above, the preliminary stormwater management plan shall~~
28 ~~include:~~
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- 30 (1) ~~A graphic depicting:~~
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- 32 (a) ~~The approximate footprint of the stormwater management~~
33 ~~facility and, where applicable, the height of the dam~~
34 ~~embankment and the location of the emergency spillway~~
35 ~~outlet for each stormwater management facility.~~
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- 37 (b) ~~The approximate on-site and off-site areas to be served by~~
38 ~~each stormwater management facility, along with the acreage~~
39 ~~draining to each facility.~~
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- 41 (c) ~~A preliminary layout of all on-site drainage channels, outfalls~~
42 ~~and pipes, including inlet and outlet pipes within the~~
43 ~~stormwater management facility.~~
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- 45 (d) ~~The approximate location or alternative locations, if any, of~~
46 ~~any maintenance access road or other means of access to the~~

stormwater management facility, and the identification of the types of surfaces to be used for any such road.

(e) ~~Proposed landscaping and tree preservation areas in and near the stormwater management facility.~~

(f) ~~The approximate limits of clearing and grading on-site and off-site for the stormwater management facility, storm drainage pipes, spillways, access roads and outfalls, including the provision of energy dissipation, storm drain outlet protection and/or stream bank stabilization measures.~~

(2) ~~A preliminary stormwater management narrative setting forth the following:~~

(a) ~~Description of how the detention and best management practice requirements will be met.~~

(b) ~~The estimated area and volume of storage of the stormwater management facility to meet stormwater detention and best management practice requirements.~~

(c) ~~For each watercourse into which drainage from the property is discharged, a description of the existing outfall conditions, including any existing ponds or structures in the outfall area. The outfall area shall include all land located between the point of discharge from the property that is located farthest upstream, down to the point where the drainage area of the receiving watercourse exceeds 100 times the area of that portion of the property that drains to it or to a floodplain that drains an area of at least 1 square mile, whichever comes first.~~

(d) ~~Description of how the adequate outfall requirements of the Public Facilities Manual will be satisfied.~~

G. ~~The location of all existing utility easements having a width of twenty-five (25) feet or more, and all major underground utility easements regardless of width.~~

H. ~~A schedule showing the number of parking spaces provided and the number required by the provisions of Article 11.~~

I. ~~Existing topography with a maximum contour interval of two (2) feet and a statement indicating whether it is air survey or field run.~~

- J. ~~A delineation of those general areas that have scenic assets or natural features deserving of protection and preservation, and a statement of how such will be accomplished.~~
- K. ~~A statement or visual presentation of how adjacent and neighboring properties shall be protected from any adverse effects prompted by the proposed development, to include vehicular access plans and dimensions of all peripheral yards that will be provided.~~
- L. ~~A delineation of all existing structures, and an indication of their date of construction if known, and whether they will be retained or demolished.~~
- M. ~~A statement setting forth the maximum gross floor area and FAR proposed for all uses other than residential.~~
- N. ~~A statement or presentation setting forth the maximum number of dwelling units proposed, and the density and the open space calculations based on the provisions of Sections 2-308 and 2-309.~~
- O. ~~A statement of those special amenities that are proposed within the development.~~
- P. ~~A statement of the public improvements, both on and off site, that are proposed for dedication and/or construction, and an estimate of the timing of providing such improvements.~~
- Q. ~~A statement setting forth the proposed approximate development schedule.~~
- R. ~~Approximate delineation of any floodplain designated by the Federal Emergency Management Agency, United States Geological Survey, or Fairfax County, the delineation of any Resource Protection Area and Resource Management Area, and the approximate delineation of any environmental quality corridor as defined in the adopted comprehensive plan, and, if applicable, the distance of any existing and proposed structures from the floodplain, Resource Protection Area and Resource Management Area, or environmental quality corridor.~~
- S. ~~Any proposed improvements to the public right(s) of way and delineation of the existing centerline of all streets abutting the property, including dimensions from the existing centerline to the edge of the pavement and to the edge of the right-of-way.~~
- T. ~~A plan showing limits of clearing, proposed landscaping and screening in accordance with Article 13, and a delineation of existing vegetation, to include existing vegetation to be preserved, and when there is 2500~~

~~square feet or more of land disturbing activity, an existing vegetation map.~~

~~U. Approximate delineation of any grave, object or structure marking a place of burial if known, and a statement indicating how the proposed development will impact the burial site.~~

~~V. A statement which confirms the ownership of the subject property, and the nature of the applicant's interest in same.~~

10.44. A statement explaining the relationship of the development to and compliance with the development criteria of the adopted comprehensive plan of the County.

~~11.42.~~ A listing, if known, of all hazardous or toxic substances as set forth in Title 40, Code of Federal Regulations Parts 116.4, 302.4 and 355; all hazardous waste as set forth in Virginia Department of Environmental Quality Hazardous Waste Management Regulations; and/or petroleum products as defined in Title 40, Code of Federal Regulations Part 280; to be generated, utilized, stored, treated, and/or disposed of on-site and the size and contents of any existing or proposed storage tanks or containers.

~~12.43.~~ A statement that the proposed development conforms to the provisions of all applicable ordinances, regulations and adopted standards or, if any waiver, exception or variance is sought by the applicant, it must be specifically noted with the justification for the modification.

If the proposal includes the request for a waiver of the yard regulations for yards abutting certain principal arterial highways and railroad tracks pursuant to Sect. 2-414, a study showing projected noise impacts, proposed mitigation measures and the effectiveness of such measures must be submitted.

13.44. Any additional information that the applicant may desire to proffer in the consideration of the application.

~~14.45.~~ Where applicable, any other information as may be required by the provisions of Article 7, including the submission of the Archaeological Survey Data Form and a Phase I Archaeological Survey to the Fairfax County Park Authority as may be required pursuant to Sect. 7-210 for applications resulting in 2500 square feet or more of land disturbing activity and where the application property is located wholly or partially within or contiguous to a Historic Overlay District.

~~15.46.~~ ~~If the proposed amendment is f~~ For a rezoning to a R, C, or I district, twenty-three (23) copies of a generalized development plan in accordance with Sect. 203 below; and for a rezoning to a P district, twenty-three (23) copies of a development plan as provided for in Article 16.

~~16.47.~~ An application fee as provided for in Sect. 106 above.

17. All statements, plans, profiles, elevations, and other materials submitted become part of the record of the hearing on the application for an amendment to the Zoning Map.

18-203 Generalized Development Plan Regulations

Generalized development plans ~~as required by Par. 10 of Sect. 202 above~~ shall be are subject to the following regulations:

1. ~~A generalized development plan shall be filed with an application for rezoning. A generalized development plan not filed with the initial submission of the an application to amend the Zoning Map shall may be submitted within sixty (60) days of the acceptance date of the application. Failure to meet this requirement shall will change the acceptance date of the application pursuant to Sect. 107 above, may be due cause to a delay in the processing of the application in accordance with Sect. 107 above, and may be due cause to for dismissal of the application in accordance with Sect. 209 below. All data shall be submitted in writing and by use of demonstrative materials necessary to present a clear and complete description of the application, and such data shall be filed with the Zoning Administrator.~~

The requirement for submission of the generalized development plan may be modified or waived by the Zoning Administrator when it has been determined that (a) the plan is not necessary for the adequate review of the rezoning application, and (b) the development as proposed by the rezoning will not have a significant adverse impact upon the community or upon the public facilities available to the property.

2. A generalized development plan, including any resubmissions and supporting graphics, must be certified by a professional engineer, architect, landscape architect or land surveyor authorized to practice as such by the State. One 8 1/2" x 11" reduction of the plan, any resubmissions and supporting graphics must also be submitted. All written statements, and all plans, profiles, elevations and other illustrative materials submitted with the generalized development plan must shall be filed in twenty-three (23) copies. Plans, profiles, elevations and other illustrative materials shall must be presented on a sheet having a maximum size of 24" x 36". If presented on more than one (1) sheet, match lines shall must clearly indicate where the several sheets join. The sheet size of a generalized development plan may be modified by the Zoning Administrator, based on the nature and/or size of the application.
3. A generalized development plan, at a scale of not less than one inch equals one hundred feet (1" = 100'), which scale may be modified by the Zoning Administrator based on the nature and/or size of the application, shall must show the following:

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- A. Scale and north arrow, with north, to the extent feasible, oriented to the top of the plan.
 - B. Except for single family detached dwellings, the approximate location and dimensions of all proposed structures and uses, to include the maximum height in feet of all structures and penthouses, and a graphic depiction of the angle of bulk plane, if applicable.
 - C. The proposed traffic circulation plan including major streets and major pedestrian, bike and/or bridle paths, and the location of all trails required by the adopted comprehensive plan.
 - D. All proposed major open space areas and the approximate location of all proposed community and public facilities.
 - E. The proposed plan for all major sanitary sewer improvements.
 - F. Approximate location, estimated size of footprint in acres and type of all proposed stormwater management facilities, including the full extent of side slopes, embankments, spillways, dams, and approximate water surface elevation for design storms, if applicable. In addition, a preliminary stormwater management plan that includes information about the adequacy of downstream drainage, including the sufficiency of capacity of any storm drainage pipes and other conveyances into which stormwater runoff will be conveyed. When there is 2500 square feet or more of land disturbing activity on the entire application property, in addition to the above, the preliminary stormwater management plan must include:
 - (1) A graphic depicting:
 - (a) The approximate footprint of the stormwater management facility and, where applicable, the height of the dam embankment and the location of the emergency spillway outlet for each stormwater management facility.
 - (b) The approximate on-site and off-site areas to be served by each stormwater management facility, along with the acreage draining to each facility.
 - (c) A preliminary layout of all on-site drainage channels, outfalls and pipes, including inlet and outlet pipes within the stormwater management facility.

(d) The approximate location or alternative locations, if any, of any maintenance access road or other means of access to the stormwater management facility, and the identification of the types of surfaces to be used for any such road.

(e) Proposed landscaping and tree preservation areas in and near the stormwater management facility.

(f) The approximate limits of clearing and grading on-site and off-site for the stormwater management facility, storm drainage pipes, spillways, access roads and outfalls, including the provision of energy dissipation, storm drain outlet protection and/or stream bank stabilization measures.

(2) A preliminary stormwater management narrative setting forth the following:

(a) Description of how the detention and best management practice requirements will be met.

(b) The estimated area and volume of storage of the stormwater management facility to meet stormwater detention and best management practice requirements.

(c) For each watercourse into which drainage from the property is discharged, a description of the existing outfall conditions, including any existing ponds or structures in the outfall area. The outfall area must include all land located between the point of discharge from the property that is located farthest upstream, down to the point where the drainage area of the receiving watercourse exceeds 100 times the area of that portion of the property that drains to it or to a floodplain that drains an area of at least 1 square mile, whichever comes first.

(d) Description of how the adequate outfall requirements of the Public Facilities Manual will be satisfied.

G. The location of all existing utility easements having a width of twenty-five (25) feet or more, and all major underground utility easements regardless of width.

H. A schedule showing the number of parking spaces provided and the number required by the provisions of Article 11.

I. Existing topography with a maximum contour interval of two (2) feet and a statement indicating whether it is air survey or field run.

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- J. A delineation of those general areas that have scenic assets or natural features deserving of protection and preservation, and a statement of how such will be accomplished.
 - K. A statement or visual presentation of how adjacent and neighboring properties will be protected from any adverse effects prompted by the proposed development, to include vehicular access plans and dimensions of all peripheral yards that will be provided.
 - L. A delineation of all existing structures, and an indication of their date of construction if known, and whether they will be retained or demolished.
 - M. A statement setting forth the maximum gross floor area and FAR proposed for all uses other than residential.
 - N. A statement or presentation setting forth the maximum number of dwelling units proposed, and the density and the open space calculations based on the provisions of Sections 2-308 and 2-309.
 - O. A statement of those special amenities that are proposed within the development.
 - P. A statement of the public improvements, both on and off-site, that are proposed for dedication and/or construction, and an estimate of the timing of providing such improvements.
 - Q. A statement setting forth the proposed approximate development schedule.
 - R. Approximate delineation of any floodplain designated by the Federal Emergency Management Agency, United States Geological Survey, or Fairfax County, the delineation of any Resource Protection Area and Resource Management Area, and the approximate delineation of any environmental quality corridor as defined in the adopted comprehensive plan, and, if applicable, the distance of any existing and proposed structures from the floodplain, Resource Protection Area and Resource Management Area, or environmental quality corridor.
 - S. Any proposed improvements to the public right(s)-of-way and delineation of the existing centerline of all streets abutting the property, including dimensions from the existing centerline to the edge of the pavement and to the edge of the right-of-way.
 - T. A plan showing limits of clearing, proposed landscaping and screening in accordance with Article 13, and a delineation of existing vegetation, to

include existing vegetation to be preserved, and when there is 2500 square feet or more of land disturbing activity, an existing vegetation map.

U. Approximate delineation of any grave, object or structure marking a place of burial if known, and a statement indicating how the proposed development will impact the burial site.

V. A statement which confirms the ownership of the subject property, and the nature of the applicant's interest in same.

~~All statements, plans, profiles, elevations, and other demonstrative materials shall become part of the record of the hearing on the application for an amendment to the Zoning Map. Any model must be accompanied by 8" by 10" clear photographs showing a top view, an isometric view and each side of the model.~~

4. ~~Any statement, plan, profile, elevation or other demonstrative material which is submitted with a rezoning application and which is to be a proffered condition shall be identified as such by a written statement to that effect signed by the applicant and the owner, to include contract purchaser. For a condominium, the written statement of proffered conditions shall be signed in accordance with the provisions of Sect. 2-518.~~

- **Amend Section 18-204. Proffered Condition Regulations by deleting the existing text in its entirety and replace with new text, as follows:**

18-204 Proffered Condition Regulations

Proffered conditions may include any statement, plan and other materials which are submitted with a rezoning application and referenced in a written statement signed by the applicant, the owner and any contract purchaser(s), and accepted by the Board in conjunction with the approval of a rezoning. For condominiums, the written statement of proffers must be signed in accordance with Sect. 2-518.

Proffered conditions are subject to the following:

1. Once the public hearing has begun, no change or addition to any proffer is allowed without a second public hearing before the Board and, at the option of the Board, a second public hearing before the Planning Commission.
2. If an amendment to the Zoning Map is adopted subject to proffered conditions, the property must be annotated as such on the Zoning Map.
3. Proffered conditions become a part of the zoning regulations applicable to the rezoned property, unless changed by a subsequent amendment approved by the Board. These proffered conditions are in addition to the specific regulations set

1 forth in the Ordinance for the zoning district in question. Once an application with
 2 proffered conditions is approved, any site plan, subdivision plat, or development
 3 plan submitted for the development of the property must be in substantial
 4 conformance with all proffered conditions and no County official may approve
 5 any development without such substantial conformance, except as may be
 6 permitted by Paragraphs 4, 5 and 6, below.

- 7
 8 4. Minor modifications to the proffered conditions are allowed when the Zoning
 9 Administrator determines that they substantially conform to the proffered
 10 conditions and do not materially alter the character of the approved development.
 11 In making this determination, the Zoning Administrator may consider factors
 12 such as topography, engineering and design. Minor modifications are not
 13 amendments or variations to the proffered conditions.

14
 15 Minor modifications may not conflict with a proffer or:

- 16
 17 A. Remove any land from or add any land to the area subject to the proffered
 18 conditions;
 19
 20 B. Create, intensify, or expand any nonconformity with maximum or minimum
 21 requirements of the zoning district;
 22
 23 C. Result in an increased parking requirement, except for any additional
 24 parking required for building additions or modifications permitted under
 25 Paragraphs 4 D and 4 K below;
 26
 27 D. Permit a more intensive use than that approved in the proffered conditions,
 28 except that places of worship or places of worship with a child care center,
 29 nursery school, private school of general or special education, may increase
 30 the number of seats, parking spaces, and/or students up to ten (10) percent
 31 of the proffered amount, if not expressly prohibited by the proffered
 32 conditions;
 33
 34 E. Permit uses other than those approved pursuant to the proffered conditions
 35 except that accessory uses may be permitted;
 36
 37 F. Reduce the effectiveness of approved transitional screening, buffering,
 38 landscaping, and/or open space;
 39
 40 G. Permit changes to bulk, mass, orientation, or location that adversely impact
 41 the relationship of the development to adjacent property, except that:
 42
 43 (1) Modifications that reduce setback dimensions up to 10% from that
 44 shown on an approved development plan may be considered, provided
 45 that they do not adversely impact adjacent property; and
 46

(2) Increases in height up to 10 feet and increases in percentages of rooftop coverage may be permitted for solar collectors and other innovative energy and environmental technologies.

H. Increase the amount of clearing or grading for a stormwater management facility, including any clearing or grading associated with spillways, inlets, outfall pipes, or maintenance roads that reduces non-stormwater management open space, tree save area, or landscaping area on the lot;

I. Expand hours of operation;

J. Expand the area or type of signage approved, although changes to color and typeface may be considered provided they do not change the character of the approved sign;

K. Include the addition of or to any building, except that accessory structures clearly subordinate to the principal use and minor building additions, including those for cellar space, may be permitted, provided that the total of all such structures or additions cannot exceed the following:

(1) 500 square feet or five (5) percent of the approved gross floor area up to 2500 square feet, whichever is greater, when the total gross floor area shown on the proffered development plan does not exceed 250,000 square feet.

(2) One (1) percent of the approved gross floor area when the total gross floor area shown on the proffered development plan exceeds 250,000 square feet.

(3) 250 square feet of gross floor area of accessory storage structure uses when the total gross floor area shown on the proffered development plan is 10,000 square feet or less.

(4) The maximum density or FAR allowed in the zoning district or the proffered conditions; however, any increase in gross floor area resulting from replacing the materials of an existing building façade is not included in the calculation of FAR;

Anyone requesting a minor modification for a building addition must send notice of the request to the owners of all property abutting and across the street from the site, or portion thereof, at the last known address, as shown in the real estate assessment files of the Department of Tax Administration.

The notice must be delivered by hand or sent by certified mail, return receipt requested and include the letter of request submitted to the Zoning Administrator with all attachments, a statement that the request has been

1 submitted, and where to call for additional information.

2
3 An affidavit from the requester must be sent to the Zoning Administrator
4 affirming that the required notice has been provided in accordance with the
5 above; the date that the notice was delivered or sent; the names and
6 addresses of all persons notified; and, the Tax Map references for all parcels
7 notified. The Zoning Administrator will not consider any request for an
8 addition that omits this affidavit.
9

- 10 5. The Board may approve certain requests for minor variations to proffered
11 conditions or final development plan conditions without a public hearing in
12 accordance with the following:
13

14 A. Such requests cannot materially affect proffered conditions of use, density,
15 or intensity, and are permissible only in one or more of the following
16 circumstances.
17

18 (1) To add or modify a use, provided that the proffered conditions do not
19 specifically preclude such use and that the applicant demonstrates that
20 the new use would have no greater land use impacts than the approved
21 uses would in terms of parking, trip generation, vehicular circulation,
22 or hours of operation.
23

24 (2) To increase permitted building height provided that the resultant height
25 increase does not:
26

27 (a) exceed 15 feet or 15% of the approved building height, whichever
28 is less;
29

30 (b) cause the building to exceed the maximum height of the zoning
31 district;
32

33 (c) have a materially adverse impact on adjacent properties.
34

35 (3) To modify proffered minimum yard dimensions, building setbacks or
36 distances from peripheral lot lines shown on an approved development
37 plan, but only if the modified dimensions would not have a materially
38 adverse impact on adjacent properties or other proffered conditions.
39

40 (4) To modify or delete, at the request of the property owner or owners'
41 association, local community/HOA active or passive recreation uses
42 shown on an approved development plan provided that any deletion or
43 modification would not reduce the recreational uses or open space
44 below the minimum required for the zoning district or otherwise
45 required by the Zoning Ordinance.
46

- 1 (5) To modify proffer commitments related to technologies (such as
2 computer business centers) or services (such as transportation shuttles)
3 that are underutilized or have become ineffective or obsolete as
4 circumstances have changed.
5
6 (6) To modify architectural design, character, color, features, or materials
7 for buildings and signs provided such modifications are of equivalent
8 quality and do not have a materially adverse impact on adjacent
9 properties.
10
11 B. When the Board approves a minor variation that affects an approved
12 development plan, the variation is deemed to apply to the development plan
13 and not require a separate development plan amendment.
14
15 C. Anyone making such a request to the Board must send notice in
16 accordance with Virginia Code Sect. 15.2-2204(B).
17
18 D. The Board at its discretion may elect not to waive a public hearing under
19 this section, in which case the application may be processed under Par. 6.
20
21 6. A request that cannot be accomplished as a minor modification or minor variation
22 requires approval of a proffered condition amendment after a public hearing
23 before the Board in accordance with Sect. 205 below.
24
25 A. An application for such an amendment may cover all or a portion of the
26 property subject to proffered conditions, or it may request to add proffered
27 conditions on a parcel not currently the subject of any proffered condition.
28 In its review of a request that does not cover all of the property subject to
29 proffered conditions, the Board should consider whether the request would
30 have an adverse impact on the remainder of the property in terms of (a) the
31 approved use, (b) fulfillment of proffered conditions, (c) vehicular and
32 pedestrian circulation, connectivity, landscaping and streetscape, and (d)
33 the approved density or intensity. After approval of an amendment, all other
34 previously approved proffered conditions remain in full force and effect.
35
36 B. Any modification to a proffered condition to provide an accessibility
37 improvement will be permitted and will not require approval of a proffered
38 condition amendment.
39
40 7. The Zoning Administrator is vested with all necessary authority on behalf of the
41 Board to administer and enforce proffered conditions. Such authority includes the
42 ability to remedy, by written order, any noncompliance with a proffered condition
43 and the ability to bring legal action to insure compliance, as provided for in Part
44 9 of this Article.
45
46

1 8. Failure to meet or comply with any proffered condition is sufficient cause to deny
 2 the approval of a subdivision plan or site plan, and the issuance of any permits,
 3 including Building Permits and Residential and Non-Residential Use Permits, as
 4 the Zoning Administrator may deem appropriate.

5
 6 9. Any person aggrieved by a decision of the Zoning Administrator regarding any
 7 proffered condition may appeal that decision to the Board. The appeal must be
 8 filed within thirty (30) days from the date of the decision being appealed by filing
 9 with the Clerk to the Board and the Zoning Administrator a notice of appeal
 10 specifying the grounds on which aggrieved. The notice of appeal filed with the
 11 Zoning Administrator must include a filing fee, as provided for in Sect. 106,
 12 above.

13
 14 **Amend Article 20, Ordinance Structure, Interpretations and Definitions, Part 2,**
 15 **Interpretations, to add a new Par. 12, as follows:**

16
 17 12. The term 'rezoning' means an amendment to the zoning map.
 18

19 **Amend Article 20, Ordinance Structure, Interpretations and Definitions, Part 3, Definitions,**
 20 **by amending the definition of FLOOR AREA, GROSS, as follows:**

21
 22 FLOOR AREA, GROSS: The sum of the total horizontal areas of the several floors of all
 23 buildings on a lot, measured from the interior faces of exterior walls. Gross floor area
 24 shall include basements; elevator shafts and stairwells at each story; floor space used for
 25 mechanical equipment with structural headroom of six (6) feet, six (6) inches or more;
 26 penthouses, except as qualified below; attic space, whether or not a floor has actually
 27 been laid, providing structural headroom of six (6) feet, six (6) inches or more; interior
 28 balconies; and mezzanines.

29
 30 Gross floor area shall not include cellars; outside balconies which do not exceed a
 31 projection of six (6) feet beyond the exterior walls of the building; parking structures
 32 below or above grade; rooftop mechanical equipment; ~~or~~ enclosed or structural walkways
 33 designed and used exclusively for pedestrian access between buildings and/or parking
 34 structures; and floor space created incidental to the replacement of an existing building
 35 façade.